In the High Court of Punjab and Haryana, Chandigarh

I.T.R. No. 64 of 1995

Date of Decision: 9.5.2007

Commissioner of Income Tax (Central), Ludhiana …Petitioner

Versus

Shri Pawan Kant …Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mr. S.K. Garg Narwana, Advocate,
for the revenue.

Mr. Akshay Bhan, Advocate,
for the assessee.

JUDGMENT

M.M. KUMAR, J (Oral)

This order shall dispose of I.T.R. Nos. 64, 81, 116, 161 and 162 of 1995 as common question of law has been referred by the Tribunal. The details of the orders of the Income Tax Appellate Tribunal, Chandigarh Bench, from where question of law has been referred for opinion of this Court, are as follows:-

Sr. No.	I.T.R. No.	Tribunal's order dated	Arising out of	Assessment Year
1.	64 of 1995 (CIT v. Shri Pawan Kant)	22.4.1993	I.T.A. No. 862/Chandi/1998	1985-86

2.	81 of 1995 (CIT v M/s Ashok Kumar & Sons, Ludhiana	27.9.1994	I.T.A. No. 1323/Chandi/ 1989	1986-87
3.	116 of 1995 (CIT v. Shri Pawan Kant (HUF)	12.2.1992	I.T.A. No. 1022/Chandi/ 1988	1984-85
4.	161 of 1995 (CIT v. Shri Pawan Kant Munjal)	23.11.1993	I.T.A. No. 334/Chandi/1989	1986-87
5.	162 of 1995 (CIT v. Shri Mahesh Munjal)	23.11.1993	I.T.A. No. 333/Chandi/1989	1986-87

The common question of law referred in these cases is as under:-

> "Whether, on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was right in law in holding that the property received by the assessee on partial partition and accretions thereto belong to his HUF and that the income flowing therefrom was not includible in his individual assessment?"

The question similar to one as referred above, came up for consideration of this Court in the case of **Commissioner of Income Tax v. Bhagat Singh, (1998) 229 ITR 239**, wherein it has been held that the assets received by the assessee on partition of part of the ancestral property do not cease to be HUF property and the income of such property was assessable in the hands of the HUF constituted by the individual. Similar view has also been expressed

by a Full Bench of Patna High Court in the case of **Commissioner of Income Tax v. Shankar Lal Budhia, (1987) 165 ITR 380** and in **Commissioner of Income Tax, M.P. v. Krishan Kumar, (1983) 143 ITR 452**. The aforementioned view has been followed by this Court again in the case of **Commissioner of Income Tax v. Shri Pawan Kant** (I.T.R. No. 7 of 1989, decided on 30.8.2004). Therefore, the question has since been answered, for the reasons stated in assessee's own earlier case, the questions are answered against the revenue and in favour of the assessee.

The reference is disposed of accordingly.

A photocopy of this order be placed in the file of the connected case.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

May 9, 2007
Pkapoor